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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/056,712	
	Filing Date	01/28/2002	
	First Named Inventor	Perena	
	Art Unit	3611	
	Examiner Name	Luby	
Total Number of Pages in This Submission	54	Attorney Docket Number	PERE100

ENCLOSURES (Check all that apply)		
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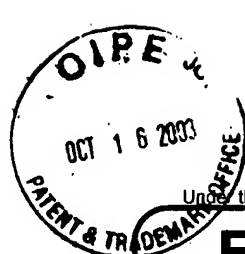
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Firm or Individual name	Richard L. Huff
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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 165

Complete if Known

Application Number	10/056,712
Filing Date	01/28/2002
First Named Inventor	Perena
Examiner Name	Luby
Art Unit	3611
Attorney Docket No.	PERE100

METHOD OF PAYMENT (check all that apply)

☐ Check ☒ Credit card ☐ Money Order ☐ Other ☐ None

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FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1)			(\$) 0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Extra Claims	Fee from below	Fee Paid
Total Claims	-20** =	X	
Independent Claims	-3** =	X	
Multiple Dependent			

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 0.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	165
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.101(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 165

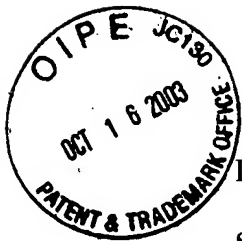
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Name (Print/Type)	Richard L. Huff	Registration No. (Attorney/Agent)	33627	Telephone	301 924 2169
Signature	<i>Richard L. Huff</i>	Date	10/14/2003		

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appeal Brief
J. Am. I. A.
10/23/03

In re application of: Perena

PATENTS

Serial No. 10/056,712

Group Art Unit: 3611

Filed: 01/28/2002

Examiner: Luby

For: WALKING ASSISTANCE DEVICE

BRIEF ON APPEAL

1) Real Party in Interest

The real party in interest is the inventor/appellant.

2) Related Appeals and Interferences

There are no other related appeals or interferences.

3) Status of Claims

Claims 1-6 are all the claims in this case. Claims 1-6 are on appeal.

4) Status of Amendments

An amendment was filed subsequent to the final rejection. Entry of the amendment was denied.

5) Summary of Invention

This invention may be best understood with reference to Figs. 1-4.

As disclosed in paragraph 27, the present invention provides a device 2 which allows individuals to stand and ambulate independently while any desired degree of their body weight is supported in a body halter 38 as well as sit and propel a wheelchair.

The device 2 is made of several parts. As described in paragraph 28, the core part of the device 2 comprises a U-shaped frame 4 holding a handrail 8, two large rear wheels 16 provided with hand grasps 18 (paragraph 37) which allow the user to propel the device

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by hand, and two small front wheels **14** which allow the user to steer the device by shifting his or her weight in the desired direction. As pointed out in paragraph 38, a fold-away seat **22** which allows the user to rest is attached to the rear end **6** of the U-shaped frame **4**.

Paragraphs 28 and 39 also describe a support frame **24** rising from the rear end **6** of the U-shaped frame **4**. This support frame **24** contains a vertical section **26** and a horizontal section **28**. The vertical section **26** contains a height-adjusting mechanism **30** (paragraph 40). The front end of the horizontal section **28** ends in a T-shaped support bar **29** as described in paragraph 39 and shown in Fig. 4.

As best seen in Figs. 1 and 2 and as described in paragraphs 44 and 45, the support frame **24** carries a series of pulleys **68** which allow for the easy movement of control connectors **46** (rope or cable). At the rear end, the control connectors **46** are connected to a winch mechanism **48** for extending or retracting the control connectors **46** and a scale **70** for determining how much of the user's weight is being supported by the control connectors **46**.

As described in paragraphs 43 and 44 and as shown in Figs. 3 and 4, a body halter **38** attaches to the user so that, when the halter **38** is assembled, the arms and legs of the user pass through upper **50** and lower holes **52** in the body halter **38**. Straps **54** which are attached to the halter **38** at the lower end **58** and thorax section **60** of the halter **38** extend above the halter **38**. The straps **54** of the body halter **38** are removably attached to connectors **40** made of ropes or cables which connect the body halter **38** to a swivel support **42**. The swivel support **42** holds the connectors **40** at the outer ends **62** thereof and contains a swivel device **64** in the center. The swivel device **64** is connected to the

center of a horizontal support bar 44. Each end 66 of the horizontal support bar 44 is connected to a control connector 46.

Using the device 2 of the present invention, the user may stand and ambulate using the handrail 8. Any degree of body weight may be supported by the device 2 as the user's weight is supported by the halter 38 and the control connectors 46. When desired, the user may sit in the attached foldable seat 22 and may use the large wheels 16 for propelling the device 2.

6) Issues

a) Whether claims 1, 4, and 5 are properly rejected under 35 USC 102(b) as being anticipated by Mah.

b) Whether claims 2 is properly rejected under 35 USC 103(a) as being unpatentable over Mah in view of Jones.

c) Whether claim 3 is properly rejected under 35 USC 103(a) as being unpatentable over Mah in view of Colpron.

d) Whether claim 6 is properly rejected under 35 USC 103(a) as being unpatentable over Mah in view of Santmann.

7) Grouping of Claims

Claims 1 and 5 are considered together. The patentability of claim 5 will stand or fall with the patentability of claim 1.

Claim 2 is considered separately.

Claim 3 is considered separately.

Claim 4 is considered separately.

Claim 6 is considered separately.

8) Argument

Claims 1 and 5 stand finally rejected under 35 USC 102(b) as being anticipated by Mah.

According to the examiner, Mah discloses an ambulatory device comprising a U-shaped frame having a closed rear end, two sides, and an open front end, two small front wheels, two large rear wheels, a seat attached to the rear of the U-shaped frame, and a support system attached to the rear of the U-shaped frame, which support system comprises a support frame having a vertical section and a horizontal section, a body halter having straps, which straps are connected by connectors to a swivel bar, which swivel bar is connected to a support bar, and which support bar is connected via control connectors through a pulley system to a winch on the vertical section of the support frame. Additionally, regarding claim 5, the examiner pointed out that the vertical section of the support frame of the reference contains a height-adjusting mechanism.

A proper rejection under 35 USC 102 requires that every limitation set forth in the claim be shown by the reference. It is appellant's position that the Mah reference does not show each limitation required by claim 1.

Claim 1 requires a body halter having straps, which straps are connected by connectors to a swivel bar, which swivel bar is connected to a support bar.

It is the examiner's position that Figs. 19, 23, and 25-28 of the reference show various types of body halters with straps. It is appellant's position that these figures fail to show a body halter having straps. Appellant cannot find any straps in these figures. Figure 19 of the reference does refer to a body harness, but no straps are shown. Figure

23 does not show a body harness. Probably what the examiner is referring to is the sling 202. A sling is not a body harness. Figures 25-28 do not show a body harness. These figures show a sling 214. A sling is not a body harness. It is noted that the slings do not show straps. According to the 2003 on-line Mirriam Webster Dictionary, “strap” means a narrow usually flat strip or thong of a flexible material and especially leather used for securing, holding together, or wrapping or a band, plate, or loop of metal for binding objects together or for clamping an object in position. As the reference does not show a strap, the reference cannot show straps connected by connectors to anything.

Additionally, where the claim requires a support bar, the reference is relied upon to show a support bar 146 in Fig. 7. The item identified by the number 146 in Fig. 7 is referred to in the patent as being a shackle.

The 2003 on-line Mirriam-Webster Dictionary defines “bar” as being a straight piece (as of wood or metal) that is longer than it is wide and has any of various uses (as for a lever, support, barrier, or fastening), a solid piece or block of material that is usually considerably longer than it is wide <a *bar* of gold> <candy *bar*>, or a usually rigid piece (as of wood or metal) longer than it is wide that is used as a handle or support; *especially*: a handrail used by ballet dancers to maintain balance while exercising.

On the other hand, this source defines “shackle” as being a usually U-shaped fastening device secured by a bolt or pin through holes in the end of the two arms.

Clearly, the shackle of the reference is not the bar required by the claim.

Regarding the interpretation of the terms “straps” and “support bar”, the decision of *Autogiro Company of America v. The United States*. 155 USPQ 697 (US Ct. Cls. 1967) is in point. The Court stated:

The necessity for a sensible and systematic approach to claim interpretation is axiomatic. The Alice-in-Wonderland view that some-thing means whatever one chooses it to mean makes for enjoyable reading, but bad law. Claims are best construed in connection with the other parts of the patent instrument and with the circumstances surrounding the inception of the patent application. *Doble Engineering Co. v. Leeds & Northrup Co.*, 134 F. 2d 78 (1st Cir. 1943). In utilizing all the patent documents, one should not sacrifice the value of these references by the "unimaginative adherence to well-worn professional phrases." *Frankfurter, supra*, at 529. Patent law is replete with major canons of construction of minor value which have seldom provided useful guidance in the unraveling of complex claims. Instead, these canons have only added confusion to the problem of claim interpretation. *Doble Engineering Co. v. Leeds & Northrup Co.*, *supra*, at 84.

In deriving the meaning of a claim, we inspect all useful documents and reach what Justice Holmes called the "felt meaning" of the claim. In seeking this goal, we make use of three parts of the patent: the specification, the drawings, and the file wrapper.

In consulting the specification, it is apparent that the conventional meaning of these terms was intended. The drawings associate these terms with structures that are associated in everyday conversation with straps and bars. Appellant's arguments are consistent with this interpretation. On the other hand, the examiner sees straps where there are no straps or straps on a body halter where there is no body halter. Likewise, the examiner sees a bar where the reference clearly shows a shackle. Using the proper interpretation of these terms, it is clear that the reference does not show the structures required by these terms. For the above reasons, it is considered that the examiner erred in rejecting claim 1 under 35 USC 102(b).

As to claim 5, claim 1 is considered to be patentable for the reasons set forth above. Under the doctrine of In re Fine, 5 USPQ2d 1596, (Fed Cir. 1988), once a broad,

independent claim is patentable over the prior art, the narrow, dependent claim is likewise allowable.

Claim 2 stands finally rejected under 35 USC 103(a) as being unpatentable over Mah in view of Jones. Mah was relied upon as teaching all of appellant's claimed invention except for an electronic scale. Jones was relied upon as teaching an electronic scale in order to indicate the amount or percentage of the patient's weight the patient is to bear during the physical therapy session. The examiner concluded that it would have been obvious to one of ordinary skill in the art at the time of the invention to provide an electronic scale on the Mah device as taught by Jones in order to indicate the amount or percentage of the patient's weight the patient is to bear during a physical therapy session.

It is appellant's position that this rejection is in error.

A determination as to whether a valid rejection has been made begins with ascertaining that the PTO policy regarding the guidelines laid down by the Supreme Court in *Graham v. John Deere*, 148 USPQ 459 (1966) has been carried out. The PTO policy is simply that patent examiners carry the responsibility of making sure that the standard of patentability enunciated in this decision is applied in each case.

The first factual inquiry required by *Graham* is determining the scope and content of the prior art.

For the reasons set forth regarding the rejection of claim 1, it is considered that the examiner has not correctly resolved this factual inquiry. The examiner has attributed teachings to the prior art which are not contained therein. For the reasons indicated above, it is appellant's position that the Mah reference does not show a body halter

having straps, which straps are connected by connectors to a swivel bar, which swivel bar is connected to a support bar.

When the prior art is misinterpreted, it cannot be said that the examiner has determined the scope and content of the prior art.

The second factual inquiry required by Graham is the ascertainment of the differences between the prior art and the claims in issue.

The examiner has not identified the differences existing between the prior art and the claim due to the requirements in the claim of a body halter containing straps and a support bar. The examiner has identified the difference that exists between the prior art and the claim due to the requirement in claim 2 of an electronic scale located above the winch and the electronic scale is connected to the winch and the support bar by the control connectors. It may be said that this inquiry factor has been partially resolved.

The third factual inquiry required by the Graham decision is the determination of the level of ordinary skill in the pertinent art. The Fed. Cir. stated in the decision of *Ryko Manufacturing Co. v. Nu-Star, Inc.*, 21 USPQ2d 1053, 1057 (Fed. Cir. 1991):

Appellant asserts legal error in the failure of the district court to resolve the level of ordinary skill in the art. The importance of resolving the level of ordinary skill in the art lies in the necessity of maintaining objectivity in the obviousness inquiry. Instead of ascertaining what was subjectively obvious to the inventor at the time of invention, the court must ascertain what would have been objectively obvious to one of ordinary skill in the art at such time. Hence, the level of ordinary skill in the art is a factual question that must be resolved and considered.

Is the level of ordinary skill that of an engineer seeking to improve on the device of Mah? Is it that of a user of the prior art device disclosed by Mah? Is it that of a physical therapist? In order to apply an objective standard in determining the

obviousness of appellant's invention, it is necessary that this determination be made by the examiner. In order to enable the appellant to make a reasoned reply based on objective standards, the results of this determination should be conveyed to appellant. This is required by case law and has not been done. Thus, the third factual inquiry required by the Graham decision has not been carried out.

The fourth factual inquiry required by Graham involves the treatment of the invention as a whole and the evaluation of secondary considerations.

There are three basic criteria set forth in section 706.02(j) of the M.P.E.P. which must be met before a *prima facie* case of obviousness is made out.

The first of these is some suggestion or motivation to combine the references. This motivation appears to be missing. The claim requires that an electronic scale is located above the winch and the electronic scale is connected to the winch and the support bar by the control connectors. In the Jones reference, an electronic scale is located on the far right of the device apparently in easy reach of the patient whereas the hoist (winch) is located on the far left and may not be accessed by the patient. There does not appear to be any teaching in the Jones reference to locate the scale above the hoist to make it inaccessible to the patient.

The second criterion is that there must be a reasonable expectation of success. One would not anticipate that the placing the scale of Jones above the hoist of Jones would be successful in accomplishing the goals of the scale as discussed in the Jones reference. Thus, the element of expectation of success is missing.

The third criterion is that the prior art references, when combined, must teach all of the claim limitations. As neither reference teaches a support bar, it cannot be said that

the combination of references as proposed by the examiner would result in a scale located between the winch and a support bar. It may be said that this inquiry factor has not been resolved.

In light of the above, it is considered that the rejection of claim 2 is in error.

Claim 3 stands finally rejected under 35 USC 103(a) as being unpatentable over Mah in view of Colpron. It is the examiner's position that Mah teaches all of appellant's claimed invention except for hand grasps on the rear wheels. Colpron is cited to show an ambulatory device including large rear wheels with hand grasps in order to permit the rider to self-propel the device. The examiner concluded that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide hand grasps on the rear wheels of the Mah device as taught by Colpron in order to permit the rider to self-propel the device. It is appellant's position that this rejection is in error.

As with claim 2 the propriety of the rejection of claim 3 will be looked at by examining the four Graham inquiry factors.

The first factual inquiry required by Graham is determining the scope and content of the prior art.

For the reasons set forth regarding the rejection of claim 1, it is considered that the examiner has not correctly resolved this factual inquiry. The examiner has attributed teachings to the prior art which are not contained therein. For the reasons indicated above, it is appellant's position that the Mah reference does not show a body halter having straps, which straps are connected by connectors to a swivel bar, which swivel bar is connected to a support bar. When the prior art is misinterpreted, it cannot be said that

the examiner has determined the scope and content of the prior art. Thus, the first factual inquiry has not been resolved.

The second factual inquiry required by Graham is the ascertainment of the differences between the prior art and the claims in issue.

As noted with the rejection of claim 2, the examiner has not identified the differences regarding a body halter containing straps and the existence of a support bar. The examiner has identified the difference concerning a hand grasp. It may be said that this inquiry factor has been partially resolved.

The third factual inquiry required by the Graham decision is the determination of the level of ordinary skill in the pertinent art. This issue has not been addressed by the examiner and has certainly not been resolved.

The fourth factual inquiry required by Graham involves the treatment of the invention as a whole and the evaluation of secondary considerations.

There are three basic criteria set forth in section 706.02(j) of the M.P.E.P. which must be met before a *prima facie* case of obviousness is made out.

The first of these is some suggestion or motivation to combine the references. This motivation appears to be missing. Why would one put hand grasps on wheels which are not intended to be turned manually? The Mah device is intended to be pushed from behind. The user would not be able to reach the wheels.

The second criterion is that there must be a reasonable expectation of success. Since the user could not reach the wheels of the Mah device, no one would expect that attaching hand grasps to the wheels would be successful for any purpose.

The third criterion is that the prior art references, when combined, must teach all of the claim limitations. The claim requires the presence of a body halter containing straps. This is not taught by the prior art. The claim requires the presence of a support bar. This is not taught by the prior art.

It is thus seen that the four Graham inquiry factors have not been resolved, and it is considered that this rejection is improper.

Claim 4 stands finally rejected under 35 USC 102(b) as being anticipated by Mah. In addition to the teachings set forth above regarding the rejection of claim 1, Mah is relied upon as showing that the two sides have handrails.

A proper rejection under 35 USC 102 requires that every limitation set forth in the claim be shown by the reference. It is appellant's position that the Mah reference does not show each limitation required by claim 4. The limitations shared by claims 1 and 4 have been discussed above and, to shorten the record, will not be discussed further but are incorporated by reference. The limitation peculiar to claim 4 is that the device has a U-shaped frame having two sides and the two sides contain handrails. It is appellant's position that the Mah reference fails to show this limitation.

In the reference, Fig 19 shows the handrails required by claim 4. In this figure, there is no seat. The examiner is not permitted to take one part from one figure and combine it with one part from another figure. The reference must show all parts in a single disclosed embodiment. It is evident that the claim requires a seat and handrails. It is also evident that the reference shows a seat or handrails. This showing cannot anticipate the claim.

It appears from the final rejection that the examiner is relying upon Fig. 1 to show the handrails required by the claim. The examiner refers to the handrails as being on the seat. The “handrails” apparently intended by the examiner are the armrests of the chair. These are not handrails contained by the two sides of the U-shaped frame. The examiner has stated, and appellant has agreed, that the U-shaped frame shown by Mah is the base frame shown in Fig. 1 to which the wheels are attached. These “handrails” referred to by the examiner are not contained by the U-shaped frame.

It is appellant’s position that these armrests contained by the chair are not handrails contained by the sides of the U-shaped frame.

In light of the above, it is urged that the rejection of claim 4 is in error.

Claim 6 stands finally rejected under 35 USC 103(a) as being unpatentable over Mah in view of Santmann. The examiner states that the primary reference does not show that the seat is foldable. The examiner also urges that the secondary reference shows an ambulatory device including a foldable seat. It is concluded by the examiner that it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a foldable seat on the Mah device as taught by Santmann in order to provide a means for the user to rest, which seat may be raised as desired. This rejection is considered to be in error.

The four Graham inquiry factors will once again be reviewed to determine the propriety of this rejection.

The first factual inquiry required by Graham is determining the scope and content of the prior art.

For the reasons set forth regarding the rejection of claim 1, it is considered that the examiner has not correctly resolved this factual inquiry. The examiner has attributed teachings to the prior art which are not contained therein. For the reasons indicated above, it is appellant's position that the Mah reference does not show a body halter having straps, which straps are connected by connectors to a swivel bar, which swivel bar is connected to a support bar. When the prior art is misinterpreted, it cannot be said that the examiner has determined the scope and content of the prior art. Thus, the first factual inquiry has not been resolved.

The second factual inquiry required by Graham is the ascertainment of the differences between the prior art and the claims in issue.

The examiner has failed to point out that the independent claim requires a body halter with straps. The examiner has failed to point out that the prior art fails to teach a support bar by as is required by the independent claim.

Further, the examiner has failed to point out that the various patient support modules of the primary reference are interchangeable and are not intended to be used together. Thus, as pointed out above, the Mah device may have the transport chair or the handle frame, but never both together. Thus, the second Graham factor inquiry has not been met.

The third factual inquiry required by the Graham decision is the determination of the level of ordinary skill in the pertinent art. As noted above, this factual inquiry has not been resolved or addressed.

The fourth factual inquiry required by Graham involves the treatment of the invention as a whole and the evaluation of secondary considerations.

As pointed out above, there are three basic criteria set forth in section 706.02(j) of the M.P.E.P. which must be met before a *prima facie* case of obviousness is made out.

The first of these is some suggestion or motivation to combine the references. No motivation can be found in the references for the examiner's suggested combination. Mah's invention is a detachably mounted patient support module mounted to the platform 32 of the device 30. This patient support module can be a transport chair, a commode seat, a handle frame, or a suspension frame.

The device of Santmann requires a pivoting seat and four upwardly extending legs. The seat is pivoted between an upward, inoperative, position and a downward, operative, position by moving a lever. For operation of the device, a hydraulic system is required. This hydraulic system attaches at one end to one of the front upwardly extending legs. Thus, a front upwardly extending leg is a required element of the Santmann device. There is no front upwardly extending leg in the Mah device. If one cannot attach a feature to make it operable, there is no motivation to attach it.

The second criterion is that there must be a reasonable expectation of success. The expectation seems to be missing.

In a first instance, if the patient support module were a transport chair which was somehow made to be capable of pivoting out of the way, the Mah device would offer no support for the patient. In a second instance, if the patient support module were a commode seat which was somehow made capable of pivoting out of the way, the results could be worse than in the first instance. In a third instance, if the patient support module were a handle frame, the device as proposed by the examiner would be impossible to construct. In a fourth instance, if the patient device module were a suspension frame as

portrayed in figure 23, and the seat as somehow made to pivot out of the way, the patient would be unable to do anything but stand still with arms extended.

The third criterion is that the prior art references, when combined, must teach all of the claim limitations. The combination as proposed by the examiner would lack the body halter with straps. It would lack a support bar. It might lack the open front end.

In view of the above, it is believed that the four Graham inquiries have not been resolved as to claim 6 and it is considered that the rejection is in error.

Regarding each of claims 2-6, it is considered that the independent claim is patentable. Under the doctrine of In re Fine, 5 USPQ2d 1596, (Fed Cir. 1988), once a broad, independent claim is patentable over the prior art, the narrow, dependent claim is likewise allowable.

For the reasons set forth above, it is considered that the rejection of claims 1-6 is improper and should be reversed.

Respectfully Submitted,



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9) Appendix

1. An ambulatory device comprising a U-shaped frame having a closed rear end, two sides, and an open front end, said U-shaped frame having two small front wheels and two large rear wheels attached thereto, a seat attached to the rear of the U-shaped frame, and a support system attached to the rear end of the U-shaped frame, which support system comprises a support frame having a vertical section and a horizontal section, a body halter having straps, which straps are connected by connectors to a swivel bar, which swivel bar is connected to a support bar, and which support bar is connected via control connectors through a pulley system to a winch on the vertical section of the support frame.
2. The ambulatory device of claim 1 wherein an electronic scale is located above the winch and the electronic scale is connected to the winch and the support bar by the control connectors.
3. The ambulatory device of claim 1 wherein the large rear wheels contain hand grasps.
4. The ambulatory device of claim 1 wherein the two sides contain handrails
5. The ambulatory device of claim 1 wherein the vertical section of the support frame contains a height-adjusting mechanism.
6. The ambulatory device of claim 1 wherein the seat is foldable.